

Atty. Docket No. FR91999007US1
(590.106)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of : Blanchard et al.
Serial No. : 09/863,920 Examiner : Felton, D.
Filed : May 23, 2001 Art Unit : 3624
For : SYSTEM AND METHOD FOR STOCK OPTIONS
MARKET MANAGEMENT

JAN 19 2006

January 19, 2006

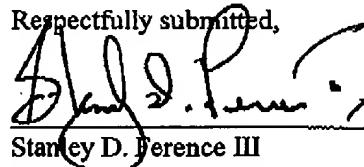
PRE-APPEAL BRIEF REQUEST FOR REVIEW

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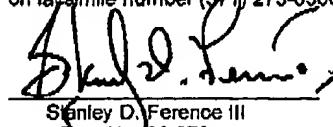
Sir:

Applicants hereby request review of the final rejection in the above-identified application in accordance with the Pre-Appeal Brief Conference Pilot Program for the reasons stated in the attached remarks. No amendments are being filed herewith and this request is being filed with a Notice of Appeal. The Commissioner is hereby authorized to charge payment of any fees associated with this communication or credit any overpayment to Deposit Account No. 50-0510.

Respectfully submitted,


Stanley D. Ference III
Registration No. 33,879

I hereby certify that this correspondence and any documents referred to as enclosed therewith are being transmitted by facsimile to the Commissioner for Patents on facsimile number (571) 273-8300 on January 19, 2006.


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(590.106)**REMARKS**

The outstanding Office Action, dated October 19, 2005, rejected claims 1-14 and the rejection was made final. Claims 1-14 stand rejected under 35 USC 103(a) as being unpatentable over Garcia (US Patent No. 6,272,474 B1). Of these claims, claims 1, 9, and 14 are independent claims; the remaining claims are dependent claims.

There is Clear Error in the Examiner's Rejections

The Office has failed to set forth a *prima facie* case of obviousness in its rejection of the present invention. The cited art fails to teach or suggest the invention as currently claimed, moreover, no motivation for the modification of the reference has been provided and no expectation of success has been shown; therefore, the present rejections are improper and made in clear error.

35 USC 103 Rejections:

To establish a *prima facie* case of obviousness under 35 U.S.C. § 103 there must be a suggestion or motivation to modify a reference or combine references; a reasonable expectation of success in making the modification or combination; and the prior art must teach or suggest all the claim limitations. *See, e.g. In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). The Office has failed in this instance to establish such a case of obviousness. The Office has not identified any motivation whatsoever in Garcia to modify the reference. Applicants submit no such motivation actually exists. Moreover, this failure alone is clearly in error and absolutely precludes the establishment

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of *prima facie* case of obviousness and, therefore, requires the immediate withdrawal of the present final rejections.

Applicants would like to also submit that there is neither an expectation of success in modifying the reference nor a teaching or suggestion of all the presently claimed elements of the invention. Thus, the rejections should again be immediately withdrawn and the claims allowed.

As the Applicants have explained in prior Amendments, Garcia discloses the display of bid / ask curves along with bid / ask trade bars. As discussed in the specification (Col. 6, lines 52-54), the bid / ask trade bars comprise three sections which supply new information unavailable in the prior art. Garcia then goes on to describe the characteristics of each section. As discussed in Garcia (Col. 6, lines 54-58), these trade bars represent percentage of sales that occur at the bid /ask prices or between both. No particular computation is performed with the "bid / ask, trade, price" information displayed in Garcia. Rather, the information displayed in Garcia is the raw information.

In contrast, the present invention does not display the raw information displayed in Garcia. Indeed, there is a specific interpretation of the raw or real information on the stock option (i.e., the bid / ask, prices). As presently written, claim 1 specifies that computation is performed on the raw data. For example, in step b the standard description (raw information) is converted into a candlestick pattern ("converting the standard description of each stock option's price into a candlestick pattern chosen among a predetermined typology of a plurality of candlestick patterns"). The candlestick pattern

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associated with each stock option is chosen from among a group of predefined patterns (the patterns typology). This is illustrated in Figure 4, discussed on Page 7 (lines 14-21), and further discussed on Page 9, line 29 through Page 11, line 8.

Additionally, in step c of Claim 1, there is a comparison of sub-time periods to allocate a code that is chosen from a group of codes (the code typology) ("comparing the standard description of the current sub-time period to the standard description of the previous sub-time period, and allocating a comparison code, the comparison code being chosen among a predetermined typology of a plurality of comparison codes"). This is illustrated on Figure 5, and discussed on Page 11, lines 10-30. Similarly, in step d there is an assignment of a trend indicator to sub-time periods, and in step e, the results of steps (b), (c), and (d) are computed with exploratory data analysis.

It is also clear that the claims of the present invention require much more than the mere generation of candle sticks. By way of non-limiting example, Claim 1 includes comparing the standard description of the current sub-time period to the standard description of the previous sub-time period, and allocating a comparison code, the comparison code being chosen among a predetermined typology of a plurality of comparison codes. Similar language appears in the other independent claims. These comparison codes are referred to in the specification as "keydelt". See Figs. 3 (308) and 5 (510). Thus, in the present invention displayed candlesticks are positioned base upon a comparison code. See Page 11, lines 23-30 ("step 508 compares the current and previous set of characteristic values and maps the comparison to a predetermined comparison typology having keydelt codes 'KD' representing the relative positioning...").

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Garcia fails to teach or suggest any computation involving the raw data. In particular, there is no teaching or suggestion in Garcia of an adaptation of the stocks and sub-time period to later compute a set of characteristics of the time periods. Furthermore, Garcia fails to teach or suggest any use of comparison codes. (While the above discussion was directed to independent Claim 1, it is equally applicable to the other independent claims) It is respectfully submitted that since the features just described are neither taught nor suggested by the applied art the present rejections are improper.

Conclusion

In view of the foregoing, it is respectfully submitted that independent Claims 1, 9, and 14 fully distinguish over the applied art and are thus allowable. By virtue of dependence from Claims 1 and 9, it is thus also submitted that Claims 2-8 and 10-13 are also allowable at this juncture.

In summary, it is respectfully submitted that the instant application, including Claims 1-14, is presently in condition for allowance. Notice to the effect is hereby earnestly solicited.